

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: **Hind et al.**

Serial No. **10/631,878**

Filed: **July 31, 2003**

For: **Self-Contained and Automated
eLibrary Method of Analyzing
Consumer Preferences**

§
§
§
§
§
§
§

Group Art Unit: **2166**

Examiner: **Navneet K. Ahluwalia**

**Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**

36736
PATENT TRADEMARK OFFICE
CUSTOMER NUMBER

APPEAL BRIEF (37 C.F.R. 41.37)

This brief is in furtherance of the Notice of Appeal, filed in this case on November 6, 2006.

A fee of \$500.00 is required for filing an Appeal Brief. Please charge this fee to IBM Corporation Deposit Account No. 09-0461. No additional fees are believed to be necessary. If, however, any additional fees are required, I authorize the Commissioner to charge these fees which may be required to IBM Corporation Deposit Account No. 09-0461. No extension of time is believed to be necessary. If, however, an extension of time is required, the extension is requested, and I authorize the Commissioner to charge any fees for this extension to IBM Corporation Deposit Account No. 09-0461.

REAL PARTY IN INTEREST

The real party in interest in this appeal is the following party: International Business Machines Corporation of Armonk, New York.

RELATED APPEALS AND INTERFERENCES

With respect to other appeals or interferences that will directly affect, or be directly affected by, or have a bearing on the Board's decision in the pending appeal, there are no such appeals or interferences.

STATUS OF CLAIMS

A. TOTAL NUMBER OF CLAIMS IN APPLICATION

Claims in the application are: 1-31.

B. STATUS OF ALL THE CLAIMS IN APPLICATION

1. Claims canceled: None.
2. Claims withdrawn from consideration but not canceled: None.
3. Claims pending: 1-31.
4. Claims allowed: None.
5. Claims rejected: 1-31.
6. Claims objected to: None.

C. CLAIMS ON APPEAL

The Claims on appeal are: 1-31.

STATUS OF AMENDMENTS

No amendments were submitted after the final office action of August 4, 2006.

SUMMARY OF CLAIMED SUBJECT MATTER

A. CLAIM 1 - INDEPENDENT

The subject matter of claim 1 is directed to a system for collecting information about a user of an electronic consumable (Specification, p. 6, line 21 through p. 7, l. 4; and Figure 2). The system includes an electronic consumable displayed using an apparatus (Specification, p. 7, ll. 5-12; Figure 2, reference numeral 202; and Figure 3, reference numerals 300 and 302). The apparatus has an input device and a sensor (Figure 2, reference numeral 206). The sensor is activated by a user action to collect information about the user's behavior as the user consumes the electronic consumable (Specification, p. 9, l. 15 through p. 10, l. 17; p. 13, l. 16 through p. 14, l. 8; and Figure 4, reference numerals 406 and 408).

B. CLAIM 9 - INDEPENDENT

The subject matter of claim 9 is directed to a system for collecting information about a user of an electronic consumable (Specification, p. 6, line 21 through p. 7, l. 4; and Figure 2). The system includes an apparatus capable of displaying an electronic consumable (Specification, p. 7, ll. 5-12; Figure 2, reference numeral 202; and Figure 3, reference numerals 300 and 302), an electronic consumable comprising documents and objects, wherein the documents and objects include instructions for automatically monitoring and reporting user behavior (Specification, p. 7, ll. 5-12; p. 6, l. 21 through p. 7, l. 24; Figure 2, reference numeral 202; and Figure 3, reference numerals 300 and 302), and wherein a user action triggers the monitoring and reporting of the user behavior (Specification, p. 9, l. 15 through p. 10, l. 17; p. 13, l. 16 through p. 14, l. 8; and Figure 4, reference numerals 406 and 408).

C. CLAIM 19 - INDEPENDENT

The subject matter of claim 19 is directed to a method of collecting information about a user of an electronic consumable (Specification, p. 6, line 21 through p. 7, l. 4; and Figure 2). The method includes storing an electronic consumable on an apparatus (Specification, p. 7, ll. 5-12; Figure 2, reference numeral 202; and Figure 3, reference numerals 300 and 302; and Figure 4, reference numeral 404), the apparatus providing means for displaying the electronic consumable

(Figure 2, reference numeral 202) in response to a user action (Specification, p. 9, l. 15 through p. 10, l. 17; p. 13, l. 16 through p. 14, l. 8; and Figure 4, reference numerals 406 and 408), collecting information about the user, wherein the information is collected according to embedded code in an object of the electronic consumable (Specification, p. 9, l. 15 through p. 10, l. 17), and reporting the information across a network (Specification, p. 9, ll. 6-14).

D. CLAIM 25 - INDEPENDENT

The subject matter of claim 25 is directed to a system for collecting information about a user of an electronic consumable (Specification, p. 6, line 21 through p. 7, l. 4; and Figure 2). The system includes a means for storing an electronic consumable on an apparatus (Specification, p. 7, ll. 5-12; Figure 2, reference numeral 202; and Figure 3, reference numerals 300 and 302), the apparatus providing a means for displaying the electronic consumable (Figure 2, reference numeral 202), in response to a user action (Specification, p. 9, l. 15 through p. 10, l. 17; p. 13, l. 16 through p. 14, l. 8; and Figure 4, reference numerals 406 and 408), a means for collecting information about the user (Figure 2, reference numeral 206), wherein the information is collected according to embedded code in an object of the electronic consumable (Specification, p. 9, l. 15 through p. 10, l. 17), and a means for reporting the information across a network (Specification, p. 9, ll. 6-14).

E. CLAIM 31 - INDEPENDENT

The subject matter of claim 31 is directed to a computer program product in a computer readable medium (Specification, p. 6, line 21 through p. 7, l. 4; p. 14, ll. 9-27; and Figure 2). The computer program product includes first instructions for storing an electronic consumable on an apparatus (Specification, p. 7, ll. 5-12; Figure 2, reference numeral 202; Figure 3, reference numerals 300 and 302; and Figure 4, reference numeral 402), the apparatus providing means for displaying the electronic consumable (Figure 2, reference numeral 202), in response to a user action (Specification, p. 9, l. 15 through p. 10, l. 17; p. 13, l. 16 through p. 14, l. 8; and Figure 4, reference numerals 406 and 408), second instructions for collecting information about the user, wherein the information is collected according to embedded code in an object of the electronic

consumable (Specification, p. 9, l. 15 through p. 10, l. 17), and a third instructions for reporting the information across a network (Specification, p. 9, ll. 6-14), wherein the information includes biological information about the user (Specification, p. 6, ll. 21-30 and p. 10, ll. 3-17).

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

The grounds of rejection to review on appeal are as follows:

A. GROUND OF REJECTION 1 (Claims 1-8, 19-22, 24-28, and 30)

Whether claims 1-8, 19-22, 24-28, and 30 fail to be anticipated under 35 U.S.C. §102(e) by *Hoshi et al.*, System for Acquiring and Analyzing Personal Profile Data and Providing the Service of Delivering Various Information, U.S. Patent Application Publication 2002/0083043 (June 27, 2002) (hereinafter “*Hoshi*”).

B. GROUND OF REJECTION 2 (Claims 9-18, 23, 29, and 31)

Whether the examiner failed to state a *prima facie* obviousness rejection under 35 U.S.C. § 103(a) against claims 9-18, 23, 29, and 31 over *Hoshi* in view of *Fedorovskaya et al.*, Imaging Method and System, U.S. Patent Application Publication 2004/0101212 (May 27, 2004) (hereinafter “*Fedorovskaya*”).

ARGUMENT

A. GROUND OF REJECTION 1 (Claims 1-8, 19-22, 24-28, and 30)

The first ground of rejection is whether claims 1-8, 19-22, 24-28, and 30 fail to be anticipated under 35 U.S.C. §102(e) by *Hoshi*. *Hoshi* does not anticipate these claims.

A.1. Claims 1-3, 7, and 8

A.1.i. Response to Rejection

Claim 1 is a representative claim of this grouping of claims. Claim 1 is as follows:

1. (Original) A system for collecting information about a user of an electronic consumable, comprising:
an electronic consumable displayed using an apparatus, the apparatus having an input device and a sensor;
wherein the sensor is activated by a user action to collect information about the user's behavior as the user consumes the electronic consumable.

Regarding claim 1, the examiner states that:

Hoshi discloses a system for collecting information about a user of an electronic consumable, comprising: an electronic consumable displayed using an apparatus, the apparatus having an input device and a sensor; wherein the sensor is activated by a user action to collect information about the user's behavior as the user consumes the electronic consumable (page 3 paragraph 0058 and 0059, *Hoshi*).

Final Office Action of August 4, 2006, p. 7.

A prior art reference anticipates the claimed invention under 35 U.S.C. §102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are in the claims. *In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990). All limitations of the claimed invention must be considered when determining patentability. *In re Lowry*, 32 F.3d 1579, 1582, 32 U.S.P.Q.2d 1031, 1034 (Fed. Cir. 1994). Anticipation focuses on whether a claim reads on the product or process a prior art reference discloses, not on what the reference broadly teaches. *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 218 U.S.P.Q. 781 (Fed. Cir. 1983). In this case each feature of the presently claimed invention is not identically shown in the cited reference, arranged as they are in the claims.

Hoshi does not anticipate claim 1 because *Hoshi* does not teach the claimed feature that “the sensor is activated by a user action to collect information.” The examiner asserts otherwise, citing from *Hoshi* as follows:

[0058] In yet another aspect of the present invention, at least either a sensor system or an actuator system is connected to each node, and control is carried out so that at least either the output screen of the sensor system or the operation screen of the actuator system is provided according to the user's operation.

[0059] Accordingly, the user can monitor the results of sensor-based measurement or detection on the screen and operate with the actuator system of interest from the screen.

Hoshi, paragraphs 0058 and 0059.

In these paragraphs *Hoshi* teaches that a control is carried out so that at least the output screen of the sensor system is provided according to the user's operation. Similarly, control is carried out so that at least the operation screen of the actuator system is provided according to the user's operation. *Hoshi* then appears to assert that these functions allow the user to monitor the results of sensor-based measurement or detection and then operate the actuator accordingly.

However, on its face, the above-cited text does not teach that the sensor *is activated* by a user action to collect information, as claimed in claim 1. *Hoshi* does not teach in any way *how* the sensor is activated. Instead, *Hoshi* implies strongly that the sensor is always operational and is used as described in paragraphs 0058 and 0059 and as elsewhere described. In any case, *Hoshi* does not teach the claimed feature of, *wherein the sensor is activated by a user action to collect information about the user's behavior as the user consumes the electronic consumable,*” as in claim 1. Therefore, *Hoshi* does not anticipate claim 1.

A.1.ii. Rebuttal of Examiner's Response

In response, the examiner states that:

First, Applicant argues that there is no teaching in Hoshi that the sensor is activated by a user action to collect information.

In response to Applicant's argument, the Examiner submits that Hoshi teaches that the sensor is activated by a user action, that is the set top box that would be integrated with node 11 would be powered on/off by the user thus it would function to collect information and relay information

only when powered on by the user, this would be irrespective of the fact that it could be powered on once and left to be in the activated state (Paragraphs 0145 - 0148). It is inherent from paragraph 0147 that the sensors (thermometers, cameras, and actuators) for monitoring have switches and control mechanisms for operation by the user. Therefore it would be inherent that a user activates the sensor to provide the functions of collecting information or relaying information or displaying information.

Final Office Action of August 4, 2006, p. 3.

The examiner asserts that set top box integrated with node 11 would be powered on and off by the user. For this reason, the examiner asserts the set top box integrated with node 11 would collect information only when powered on by the user, whether or not the system could be powered once and left activated. The examiner then asserts a user would inherently activate the sensor to provide the asserted functions.

However, the examiner's assertions regarding inherent teachings of *Hoshi* do not comport with the law of inherent anticipation. The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993) (reversed rejection because inherency was based on what would result due to optimization of conditions, not what was necessarily present in the prior art); *In re Oelrich*, 666 F.2d 578, 581-82, 212 USPQ 323, 326 (CCPA 1981). "To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. **Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.**" *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999) (citations omitted) (emphasis supplied).

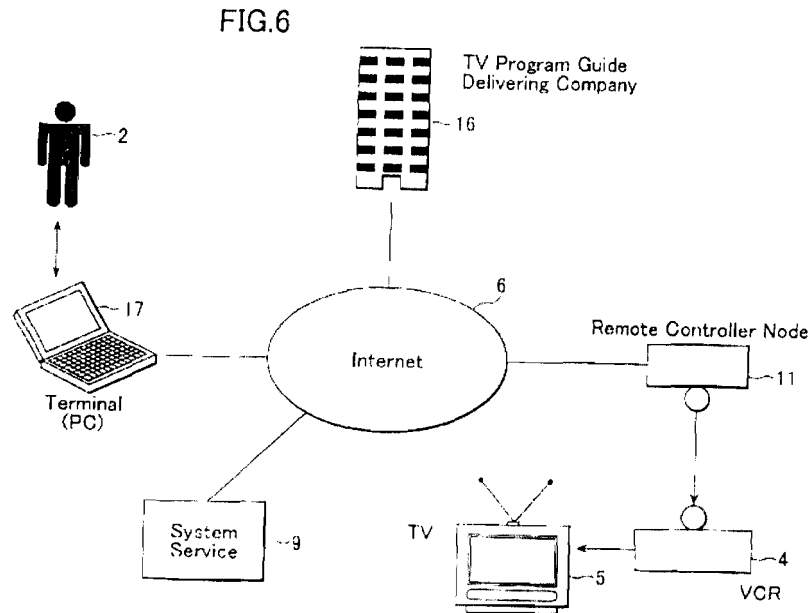
Thus, the missing fact must be *necessarily present*, not possibly present and *not probably present*. In this case, the examiner engages in unsupported speculation as to whether or not *Hoshi*'s system is activated by activating the *combination* of the node 11 and the set top. *Hoshi* teaches the following in paragraph 147:

[0147] Furthermore, a plurality of sensors 14 for on-demand remote monitoring by the user 2, such as thermometers and cameras, and a

plurality of actuators 15 for remote operation by the user 2, such as switches and control mechanisms, are connected to the node 11 as necessary.

Hoshi, paragraph 147.

Hoshi teaches that a plurality of sensors for on demand remote monitoring are connected to the node 11. Node 11 is the remote controller node, as exemplified by figure 6 of *Hoshi*, reproduced below:



Thus, the remote controller node 11 is separate from the TV 5 and the VCR 4. Although *Hoshi* does not explicitly state otherwise, a plausible theory is that the user can independently control each of the remote controller node 11, TV 5 and VCR 4, as provided by paragraphs 145 through 148 and in particular in paragraph 147. Another plausible theory is that the sensors are separate from remote controller node 11 itself. Another not-so-plausible theory, forwarded by the examiner, is that the sensors are part of TV 5 and VCR 4.

However, even if the theory were plausible, plausibility is not enough to support inherent anticipation. Rather, the feature at issue must *necessarily* be present. In this case, claim 1 requires that the *same apparatus* displaying the electronic consumable have the sensor and that the sensor is *activated by a user action*. Contrary to the examiner's assertion, *Hoshi* does not teach this claimed feature. In fact, *Hoshi* suggests otherwise because the remote controller node, to which the sensors are "connected," is separate from the TV and VCR, which are the devices that actually display the

electronic consumable. Additionally, *Hoshi* does not *necessarily* teach the claimed feature at issue because the remote controller, TV, and VCR plausibly are all controlled separately. Because a plausible alternative exists to the examiner's speculative theory that *Hoshi's* system operates as a combination of node 11 and TV/VCR 4 and 5 *Hoshi* does not inherently teach the claimed feature at issue.

Because *Hoshi* does not actually teach the claimed feature at issue, *Hoshi* does not actually anticipate claim 1 under the standards of *In re Bond*. Because *Hoshi* does not inherently teach the claimed feature at issue, *Hoshi* does not inherently anticipate claim 1 under the standards of *In re Rijckaert*. Therefore, *Hoshi* does not anticipate claim 1 or any other claim in this grouping of claims.

A.2. Claim 4

A.2.i. Response to Rejection

Claim 4 is as follows:

The system of claim 1, wherein by activating the input device, the user causes the information to be collected.

In rejecting claim 4 the examiner states that:

Hoshi discloses the system of claim 1, wherein by activating the input device, the user causes the information to be collected (paragraph 0144 - 45, *Hoshi*).

Final Office Action of August 4, 2006, p. 8.

Hoshi does not anticipate claim 4 because *Hoshi* does not teach the claimed feature that by activating the *input device* the user causes the information to be collected. In claim 4 the input device and the sensor are part of the apparatus displaying the electronic consumable, as shown in claim 1 reproduced again below for ease of reference:

1. (Original) A system for collecting information about a user of an electronic consumable, comprising:
 - an electronic consumable displayed using an apparatus, the apparatus having an input device and a sensor;
 - wherein the sensor is activated by a user action to collect information about the user's behavior as the user consumes the electronic consumable.

Hoshi does not teach the features of claim 4. The examiner asserts otherwise, citing the following paragraphs of *Hoshi*:

[0144] The node 11 is configured so as to operate in response to the control signals of a general-purpose remote controller 12 that the user 2 operates in order to control the VCR 4 or TV 5. The node 11 successively stores such operation details as power-on/off by the remote controller 12, timer-recording of programs and channel selection, as historical records of operation and viewed programs, along with timestamp data on these operations. These data items stored in the node 11 are transmitted as necessary, according to requests from the system service section 9, in order to analyze the effectiveness of advertisements or personal profiles. Alternatively, the node 11 autonomously transmits the data items to the system service section 9 at regular times.

[0145] Note that the node 11 is provided with cache memory for temporarily storing, for example, the profile data of the user 2 and advertisements and information content based on the profile data, so that a plurality of nodes 11 can have online access to the Internet 6, though the memory is not shown in the figure.

Hoshi, paragraphs 144 and 145.

Hoshi teaches that the node, to which are “connected” the sensors, is configured to operate in response to control signals of a remote controller that the user operates in order to control the VCR 4 or TV 5. *Hoshi* also teaches that the node and the TV or VCR are separate. *Hoshi* does not teach that by activating the *input device* of the display the user causes information to be collected by *the sensors*, as in claim 4 (through the features of claim 1). Instead, *Hoshi* teaches that the node operates in response to the *remote controller*. In other words, in *Hoshi*’s system the user activates the sensors and the input device separately. *Hoshi* does not teach that by activating the input device of the TV or VCR that information is collected by the sensors, as would be required in claim 4. Therefore, *Hoshi* does not anticipate claim 4.

A.2.ii. Rebuttal of Examiner’s Response

In response to these facts, the examiner asserts the following:

Second, Applicant argues that there is no teaching in Hoshi that by activating the input device the user causes the information to be collected or that the user activates the sensor by manipulating an object of the electronic consumable.

In response to Applicant's argument, the Examiner submits that Hoshi teaches that the sensor is activated by a user action, that is the set top box that would be integrated with node 11 would be powered on/off by the user thus it would function to collect information and relay information only when powered on by the user, this would be irrespective of the fact that it could be powered on once and left to be in the activated state (Paragraphs 0145 -0148). It is inherent from paragraph 0147 that the sensors (thermometers, cameras, and actuators) for monitoring have switches and control mechanisms for operation by the user. Therefore it would be inherent that a user activates the sensor to provide the functions of collecting information or relaying information or displaying information. Hoshi teaches that by activating the input device the user causes the information to be collected and that the user activates the sensor by manipulating an object of the electronic consumable. In paragraph 0144 Hoshi discloses that the data items stored in node are transmitted in order to analyze the information and the profiles. It also discloses that the data items are transmitted regularly to the system service station.

Final Office Action of August 4, 2006, pp. 3-4.

Again, the examiner's assertions are based on a speculative reading on what *Hoshi* teaches and not on what *Hoshi necessarily* teaches. Thus, the examiner's assertions do not comport with the law of inherent anticipation, as provided by *In re Rijckaert*.

The examiner's assertions rely on the erroneous assertion that the set top box 4 or 5 is *necessarily* integrated with the remote controller node 11. As shown above, this fact is not taught by *Hoshi*; in fact, *Hoshi* strongly implies the opposite – that the node 11 and the set top box 4 or 5 are separate. Thus, in *Hoshi*, activation of the claimed input device (which would be TV 5 or VCR 4) does *not necessarily* result in collection of information *by the claimed sensor* (which would be node 11). Instead, *Hoshi* teaches that the node 11 and the TV 5 or VCR 4 are activated separately *by the remote control*.

In any case, even if the examiner's hypothetical and incorrect assertion were plausible, plausibility is not enough for inherent anticipation under *In re Rijckaert*. Instead, because *Hoshi* does not *necessarily* teach the claimed feature of, "wherein by activating the input device, the user causes the information to be collected," *Hoshi* does not inherently anticipate claim 4. Additionally, as shown above, *Hoshi* does not actually anticipate claim 4.

A.3. Claims 5, 19-22, and 25-28

A.3.i Response to Rejection

Claim 19 is a representative claim of this grouping of claims. Claim 19 is as follows:

19. A method of collecting information about a user of an electronic consumable, comprising the steps of:
- storing an electronic consumable on an apparatus, the apparatus providing means for displaying the electronic consumable;
 - in response to a user action, collecting information about the user, wherein the information is collected according to embedded code in an object of the electronic consumable; and
 - reporting the information across a network.

Hoshi does not anticipate claim 19 because *Hoshi* does not teach the claimed feature of, “the information is collected according to embedded code in an object of the electronic consumable.” The examiner asserts otherwise, stating as follows:

Hoshi discloses a method of collecting information about a user of an electronic consumable, comprising the steps of: storing an electronic consumable on an apparatus, the apparatus providing means for displaying the electronic consumable; in response to a user action, collecting information about the user (page 3 paragraph 0058 and 0059, *Hoshi*), wherein the information is collected according to embedded code in an object of the electronic consumable (paragraph 0146 - 0147, *Hoshi*); and reporting the information across a network (Figure 12 and paragraph 0144, *Hoshi*).

Final Office Action of August 4, 2006, p. 9.

The examiner cites the following paragraphs as teaching the claimed feature at issue:

[0146] In addition to the cache memory, the node 11 may be provided with another memory 13 for regularly storing user-specific data items, as necessary, including the profile data of the user 2 and advertisement and information content based on the profile data, so that the node 11 autonomously and selectively reads out necessary content in response to remote controller operation by the user 2 and shows them on the TV screen.

[0147] Furthermore, a plurality of sensors 14 for on-demand remote monitoring by the user 2, such as thermometers and cameras, and a

plurality of actuators 15 for remote operation by the user 2, such as switches and control mechanisms, are connected to the node 11 as necessary.

Hoshi, paragraphs 146 and 147.

The cited paragraphs of *Hoshi* teach that the node may be provided with a memory for storing user-specific data items, such as a profile. The node can then read out content in response to remote controller operation and show the content on the TV screen. Sensors are connected to the node for monitoring the user's reactions.

However, the cited portions of *Hoshi* do not teach that the information is collected *according to embedded code in an object of the electronic consumable*. The disclosure does not exist in *Hoshi*. The examiner's assertions to the contrary are manifestly incorrect. Instead, *Hoshi* teaches that *content* is read out to the *television* based on user-specific data items stored in the *remote control*. This feature is not equivalent or remotely related to the claimed feature that the *information* is collected to embedded code *in an object of the electronic consumable*.

Nothing in cited portion of *Hoshi* or any other portion of *Hoshi* teaches this claimed feature. Therefore, *Hoshi* does not anticipate claim 9 or any other claim in this grouping of claims.

A.3.ii Rebuttal to the Examiner's Response

In response to these facts the examiner asserts the following:

Third, Applicant argues that there is no teaching in *Hoshi* that and that the object of the electronic consumable can only be stored in containers that allow the embedded code of the object to function and the information is collected according to embedded code in an object of the electronic consumable.

In response to Applicant's argument, the Examiner submits that Hoshi discloses the TV program guide that stores items of broadcast and content delivery section, is obtained by the node 11 that is connected to the set top box. The set top box is inherently a hardware that would be programmed with some code to perform its functionalities of gathering information, storing it and then transmitting it for processing and analysis as explained in paragraph 0140. The information is collected according to what is

being views keeping in mind the profile of the user and this would be possible to implement on a piece of hardware only it contained code embedded in it. Also the TV program guide is content information embedded in some language or code.

Final Office Action of August 4, 2006, p. 4.

The examiner asserts that *Hoshi* discloses the TV program guide that stores items of broadcast and content is obtained by the node 11 that is connected to the set top box. The examiner believes that the set top box is inherently a hardware that would be programmed with some code to perform its functionalities of gathering information, storing information, and then transmitting the information for processing and analysis. The examiner also asserts that the implementation of *Hoshi*'s system could be implemented on a piece of hardware containing embedded code.

However, the examiner misunderstands claim 19. Claim 19 requires that, "*the information is collected according to embedded code in an object of the electronic consumable.*" The examiner's comments are directed towards embedding code in hardware, particularly in the TV or the remote controller. However, claim 19 is directed to collecting information according to code embedded in an object *of the electronic consumable* itself. *Hoshi* does not teach that the TV program contains embedded code according to which the information is collected, as claimed. Therefore, *Hoshi* does not anticipate claim 19 or any other claim in this grouping of claims.

A.4. Claims 6, 24, and 30

Claim 6 is a representative claim of this grouping of claims. Claim 6 is as follows:

6. The system of claim 1, wherein the object of the electronic consumable can only be stored in containers that allow the embedded code of the object to function.

Hoshi does not anticipate claim 6 because *Hoshi* does not teach that the object of the electronic consumable can only be stored in containers that allow the embedded code of the object to function. The examiner asserts otherwise, citing figures 7 and 10 of *Hoshi*.

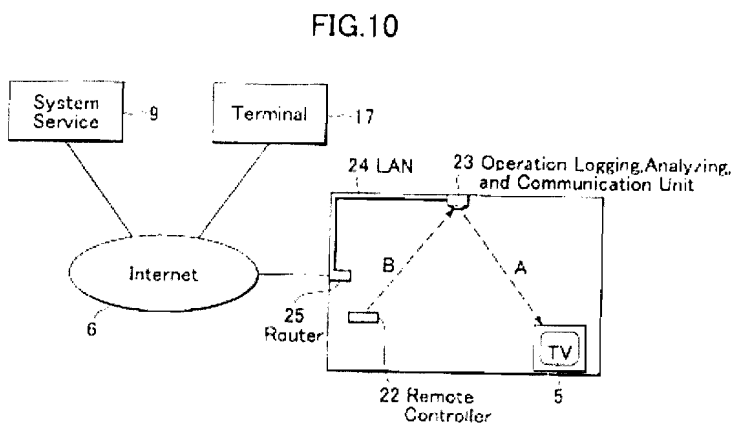
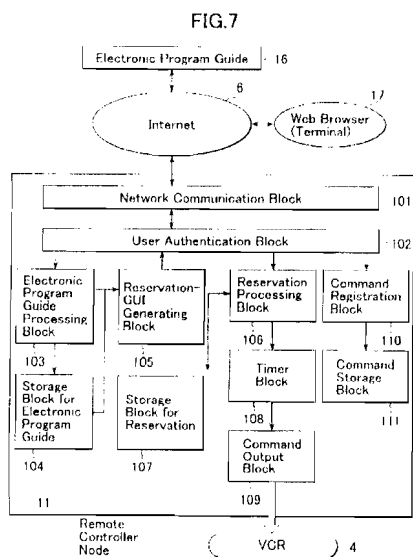


Figure 7 of *Hoshi* provides details regarding the remote controller node. Nothing in *Hoshi* teaches that the object of the *electronic consumable* can only be stored in containers that allow the embedded code of the object to function.

Figure 10 of *Hoshi* shows the interaction between the service system 9 connects through the internet to the remote controller 22 and TV 5. Again, nothing in Figure 10 teaches that the object of the *electronic consumable* can only be stored in containers that allow the embedded code of the object to function.

Figure 7 and Figure 10 are wholly unrelated to this claimed feature. Additionally, nothing else in *Hoshi* teaches this claimed feature. Therefore, *Hoshi* does not anticipate claim 6 or any other claim in this grouping of claims.

B. GROUND OF REJECTION 2 (Claims 9-18, 23, 29, and 31)

The second ground of rejection is whether the examiner failed to state a *prima facie* obviousness rejection under 35 U.S.C. §103(a) against claims 9-18, 23, 29, and 31 over *Hoshi* in view of *Fedorovskaya*. The examiner has failed to state a *prima facie* obviousness rejection against these claims.

B.1. Claims 9, 11-16, 18, 23, and 29

B.1.i. The Proposed Combination Does Not Teach All of the Features of Claim 9

Claim 9 is a representative claim of this grouping of claims. Claim 9 is as follows:

9. A system for collecting information about a user of an electronic consumable, comprising:
an apparatus capable of displaying an electronic consumable;
an electronic consumable comprising documents and objects;
wherein the documents and objects include instructions for automatically monitoring and reporting user behavior; and
wherein a user action triggers the monitoring and reporting of the user behavior.

In rejecting claim 9 the examiner

Hoshi discloses a system for collecting information about a user of an electronic consumable, comprising: an apparatus capable of displaying an electronic consumable; an electronic consumable comprising documents and objects; wherein the documents and objects include instructions for automatically monitoring and reporting user behavior; and wherein a user action triggers the monitoring and reporting of the user behavior (paragraphs 0058, 0059 and 0239, *Hoshi*).

Hoshi does not explicitly disclose monitoring and reporting user behavior as claimed.

Fedorovskaya teaches monitoring and reporting of user behavior (paragraph 0036 and 0047, *Fedorovskaya*).

It would have been obvious to one of ordinary skill in the art of data processing at the time of the present invention to combine the teachings of cited references because the analysis of the captured user behavior would lead to an accurate profiling of the users (paragraph 0062, *Fedorovskaya*). Furthermore, the classifications of emotions portrayed in pictures help in reviewing the information (paragraph 0009, *Fedorovskaya*). Also the monitoring/tagging of the user behavioral reactions and storing the information is taught in *Fedorovskaya* paragraphs 0036 - 38) and reporting the monitored, tagged user behavior would lead to accurate profiling of the users.

Final Office Action of August 4, 2006, pp. 12-13.

If the Patent Office does not produce a *prima facie* case of unpatentability, then without more the applicant is entitled to grant of a patent. *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Grabiak*, 769 F.2d 729, 733, 226 U.S.P.Q. 870,

873 (Fed. Cir. 1985). A *prima facie* case of obviousness is established when the teachings of the prior art itself suggest the claimed subject matter to a person of ordinary skill in the art. *In re Bell*, 991 F.2d 781, 783, 26 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1993). All limitations of the claimed invention must be considered when determining patentability. *In re Lowry*, 32 F.3d 1579, 1582, 32 U.S.P.Q.2d 1031, 1034 (Fed. Cir. 1994). In this case, the examiner has failed to state a *prima facie* obviousness rejection of claim 9 because the proposed combination does not teach all of the features of claim 9.

The proposed combination of *Hoshi* and *Fedorovskaya* when considered as a whole does not teach or suggest the claimed feature of, “wherein the documents and objects include instructions for automatically monitoring and reporting user behavior.” Therefore, under the standards of *In re Lowry*, the examiner has failed to state a *prima facie* obviousness rejection against claim 9.

The examiner does not assert that *Fedorovskaya* teaches this claimed feature. Moreover, nothing in *Fedorovskaya* teaches or suggests this claimed feature. Nevertheless, the examiner asserts that *Hoshi* teaches this claimed feature, citing three paragraphs in *Hoshi*. Each of these citations is considered in turn. First, the examiner cites the following portion of *Hoshi*:

[0058] In yet another aspect of the present invention, at least either a sensor system or an actuator system is connected to each node, and control is carried out so that at least either the output screen of the sensor system or the operation screen of the actuator system is provided according to the user's operation.

Hoshi, Paragraph 58.

This portion of *Hoshi* teaches that a sensor system is connected to a node and that control is carried out such that output of the sensor system is provided according to the user's operation. However, nothing in this portion of *Hoshi* teaches, “wherein the documents and objects include instructions for automatically monitoring and reporting user behavior,” as in claim 9. In claim 9, the electronic consumable comprises the documents and objects. *Hoshi* provides no indication that the documents and objects in the electronic consumable include instructions for automatically monitoring and reporting user behavior. Instead, such instructions are found elsewhere, particularly in the remote controller as described above.

Nevertheless, the examiner also cites the following paragraph of *Hoshi* for support:

[0059] Accordingly, the user can monitor the results of sensor-based measurement or detection on the screen and operate with the actuator system of interest from the screen.

Hoshi, paragraph 59.

This portion of *Hoshi* teaches that the user can monitor the results of sensor based measurement and operate with the actuator system of interest from the screen. This portion of *Hoshi* does not teach, “wherein the documents and objects include instructions for automatically monitoring and reporting user behavior,” as in claim 9. *Hoshi* does not indicate that the electronic consumable contains documents and objects. *Hoshi* does not indicate that the electronic consumable containing the documents and objects include instructions for automatically monitoring and reporting user behavior. Thus, this portion of *Hoshi* does not teach the claimed feature at issue.

Nevertheless, the examiner also cites the following paragraph of *Hoshi* for support:

[0239] By installing a camera or cameras in the room, it is also possible to determine who among the family members is watching the TV.

This portion of *Hoshi* teaches that cameras installed in a room can be used to determine who is watching the TV. This portion of *Hoshi* is wholly irrelevant to the issue of whether documents and objects, included in the electronic consumable, include instructions for automatically monitoring and reporting user behavior, as in claim 9. Instead, this portion of *Hoshi* teaches that an *external device* monitors user behavior.

Additionally, no other portion of *Hoshi* teaches the claimed feature of, “wherein the documents and objects include instructions for automatically monitoring and reporting user behavior,” as in claim 9. Moreover, because *Hoshi* is devoid of disclosure in this regard, *Hoshi* also does not suggest this claimed feature. *Fedorovskaya* does not teach or suggest this claimed feature, and the examiner does not assert otherwise. Because neither *Hoshi* nor *Fedorovskaya* teach or suggest this claimed feature, the proposed combination of the references when considered together as a whole also does not teach or suggest this claimed feature. Therefore, under the standards of *In re Lowry*, the examiner has failed to state a *prima facie* obviousness rejection against claim 9.

B.1.ii. The Examiner Did Not State a Proper Teaching, Suggestion, or Motivation to Combine the References

In addition, the examiner has failed to state a *prima facie* obviousness rejection against claim 9 because the examiner failed to state a proper motivation to combine the references. A proper *prima facie* case of obviousness cannot be established by combining the teachings of the prior art absent some teaching, incentive, or suggestion supporting the combination. *In re Napier*, 55 F.3d 610, 613, 34 U.S.P.Q.2d 1782, 1784 (Fed. Cir. 1995); *In re Bond*, 910 F.2d 831, 834, 15 U.S.P.Q.2d 1566, 1568 (Fed. Cir. 1990). In this case, the examiner has not provided a proper teaching, incentive or suggestion supporting the combination.

Regarding a reason to combine the references, the examiner states that:

It would have been obvious to one of ordinary skill in the art of data processing at the time of the present invention to combine the teachings of cited references because the analysis of the captured user behavior would lead to an accurate profiling of the users (paragraph 0062, *Fedorovskaya*). Furthermore, the classifications of emotions portrayed in pictures help in reviewing the information (paragraph 0009, *Fedorovskaya*). Also the monitoring/tagging of the user behavioral reactions and storing the information is taught in *Fedorovskaya* paragraphs 0036 - 38) and reporting the monitored, tagged user behavior would lead to accurate profiling of the users.

Final Office Action of August 4, 2006, p. 13.

The examiner asserts that combining the references would have been obvious because the analysis of captured behavior would lead to an accurate profiling of the users and that the classifications of emotions portrayed in pictures help in reviewing the information. However, the examiner has only stated a purported advantage of combining the reference. An advantage, by itself, is insufficient to provide a teaching, suggestion, or motivation to combine the references to achieve the claimed invention. For example, the examiner cannot merely pick and choose elements from the prior art simply because an advantage exists to combine the references.

To constitute a proper teaching, suggestion, or motivation, the examiner must establish that one of ordinary skill would both recognize the advantage and have a reason to implement the advantage. For example, a first reference may disclose the use of lasers to achieve nuclear fusion. A second reference may disclose that ultra-high power lasers deliver more energy. One of ordinary skill may recognize that an ultra-high power laser would be more useful to achieve nuclear fusion,

though one of ordinary skill would be motivated to avoid combining the references because of the extreme expense of ultra-high power lasers. In this example, one of ordinary skill is motivated to avoid implementing the combination, even if he or she recognized the advantage, and so no teaching, suggestion, or motivation exists to combine the references.

In the case at hand, the examiner has not provided a sufficient reason why one of ordinary skill would have a reason to implement the proposed advantage. The examiner states that “the analysis of the captured user behavior would be more accurate.” However, the examiner does not state that one of ordinary skill would have a reason to implement the proposed advantage. In the case at hand, one of ordinary skill would be motivated to avoid combining the references because large amounts of memory and processor power, hence a large expense, would be required to implement profiling a user’s emotions and facial expressions. The examiner provided no reason to overcome this reason to avoid combining the references.

Furthermore, the examiner provided no reason why the purported increased accuracy is necessary or even desirable. For example, *Hoshi’s* method is complete in and of itself for the purpose *Hoshi* intends. *Hoshi’s* method does not require “increased accuracy.” Given the lack of a need for increased accuracy, and given the increased costs of implementing the technology described in *Fedorovskaya*, one of ordinary skill would have no reason to combine the references to achieve the invention of claim 9. Thus, again, no teaching, suggestion, or motivation exists to combine the references to achieve the invention of claim 9. Certainly, the examiner has not offered a proper teaching suggestion, or motivation to combine the references to achieve the invention of claim 9.

For the reasons presented above, the examiner has failed to provide a proper teaching, suggestion, or motivation to combine the references. Accordingly, the examiner has failed to state a *prima facie* obviousness rejection against claim 9 or any other claim in this grouping of claims.

B.1.iii. No Teaching, Suggestion, or Motivation To Combine the References Exists Because the References Address Different Problems

One of ordinary skill would not combine the references to achieve the invention of claim 9 because the references are directed towards solving different problems. It is necessary to consider the reality of the circumstances--in other words, common sense--in deciding in which fields a

person of ordinary skill would reasonably be expected to look for a solution to the problem facing the inventor. *In re Oetiker*, 977 F.2d 1443 (Fed. Cir. 1992); *In re Wood*, 599 F.2d 1032, 1036, 202 U.S.P.Q. 171, 174 (CCPA 1979). In the case at hand, the cited references address distinct problems. Thus, no common sense reason exists to establish that one of ordinary skill would reasonably be expected to look for a solution to the problem facing the inventor. Accordingly, no teaching, suggestion, or motivation exists to combine the references and the examiner has failed to state a *prima facie* obviousness rejection of claim 9.

For example, *Hoshi* is directed to solving the problem of providing personalized media content in a cost-effective manner. For example, *Hoshi* provides that:

[0015] In broadcast content delivery based on broadcasting, a program producer (content provider) has the following problems:

[0016] 1) The delivery usually requires large-scale program production, which is a high barrier against participation.

[0017] 2) The program producer cannot provide such small-scale content as those dedicated to data only.

[0018] 3) Since there is only a limited number of media channels, significant cost is required to own such channels.

[0019] What the user 2 receives is normalized content only, so the user 2 cannot receive any personalized content.

Hoshi, paragraphs 15-19.

On the other hand, *Fedorovskaya* is directed to the problem of recognizing, categorizing, and storing affective images. For example, *Fedorovskaya* provides as follows:

[0013] The described systems do not associate, do not store, and do not transmit the physiological signals, or any other "importance" identifier together with the corresponding images. As a result, the "important" images can be easily lost among other images in a database, since there is nothing in these "important" images to indicate that these images are "important". This can happen, for example, when the digital image files are used on a different system, when the images are transferred via a recordable compact disk or other media, when the images are uploaded to an on-line photo service provider, etc. The described systems also do not

associate, do not store, and do not transmit the user's identifier together with the corresponding images. Therefore, when the system is used by more than one user, it is unable to distinguish which user reacts to the image as "important".

Fedorovskaya, paragraph 13.

Based on the plain disclosures of the references themselves, the references address completely distinct problems that are unrelated to each other. The problem of providing personalized media content in a cost-effective manner is completely distinct from the problem of recognizing, categorizing, and storing affective images.

Because the references address completely distinct problems, one of ordinary skill would have no reason to combine or otherwise modify the references to achieve the invention of claim 9. Thus, no proper teaching, suggestion, or motivation exists to combine the references in the manner suggested by the examiner. Accordingly, the examiner has failed to state a *prima facie* obviousness rejection against claim 9 or any other claim in this grouping of claims.

B.1.iv. The Examiner Used Impermissible Hindsight When Fashioning the Rejection

In addition, the examiner has failed to state a *prima facie* obviousness rejection against claim 9 because the examiner used impermissible hindsight when fashioning the rejection. Personal opinion cannot be substituted for what the prior art teaches because a *prima facie* case of obviousness is established when the teachings of the prior art itself suggest the claimed subject matter to a person of ordinary skill in the art. *In re Bell*, 991 F.2d 781, 783, 26 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1993).

In this case, the references address starkly different problems, as shown above. Additionally, the references do not teach what the examiner asserts the references to teach. In further light that the examiner made wholly unsupported assumptions regarding the teachings of *Hoshi*, the examiner could only have fashioned the rejections by using the examiner's personal opinion rather than by using the actual teachings of known prior art. Therefore, the examiner must have used impermissible hindsight when fashioning the rejection of claim 9. Accordingly, under the standards of *In re Bell*, the examiner failed to state a *prima facie* obviousness rejection of claim 9.

Additionally, the examiner believes that combining the references would be obvious, “because the analysis of the captured user behavior would lead to an accurate profiling of the users.” However, *Hoshi* has no need for an accurate profiling of users because *Hoshi* can already accurately profile users. Given that *Hoshi* has no need for additional accuracy, and given that neither reference suggests a reason to combine the references, one of ordinary skill would have no reason to combine or otherwise modify the references.

Because *Hoshi* has no need for the claimed feature, the examiner must have simply picked and chosen this claimed feature from the known art based on the examiner’s personal opinion, rather than on the disclosed needs of the known art. Therefore, the examiner must have used impermissible hindsight when fashioning the rejection of claim 9. Accordingly, under the standards of *In re Bell*, the examiner failed to state a *prima facie* obviousness rejection of claim 9.

Based on the plain disclosures in the references, the only suggestion to modify the references is found in Applicants’ specification. Hence, the examiner must have used Applicants’ specification to find a teaching, suggestion, or motivation to combine the references. Combining the references in this manner constitutes impermissible hindsight and fails to comport with the standards of *Graham v. John Deere Co.*, 383 U.S. 1 (1966), which requires a proper teaching, suggestion, or motivation to combine or modify references to achieve a proper obviousness rejection. Accordingly, the examiner has failed to state a *prima facie* obviousness rejection against claim 9 and against the other claims in this grouping of claims.

B.2. Claim 10

Claim 10 is as follows:

The system of claim 9, wherein the user behavior reported comprises how long the user looked at a first page of the document.

The examiner rejected claim 10, stating that:

Fedorovskaya teaches wherein the user behavior reported comprises how long the user looked at a first page of the document (paragraph 0042, 0047, *Fedorovskaya*).

Final Office Action of August 4, 2006, p. 13.

B.2.i. The Proposed Combination Does Not Teach All of the Features of Claim 10

Claim 10 depends from claim 9. Thus, for the reasons presented vis-à-vis the response to the rejection of claim 9, the examiner has failed to state a *prima facie* obviousness rejection against claim 10.

Additionally, the proposed combination considered as a whole also does not teach the features of claim 10. The examiner implicitly admits and applicants agree that *Hoshi* does not teach the claimed feature of, “wherein the user behavior reported comprises how long the user looked at a first page of the document,” as in claim 10. Additionally, *Fedorovskaya* does not teach this claimed feature. The examiner asserts otherwise, citing the following portion of *Fedorovskaya*:

[0042] Eye movement characteristics (e.g., eye fixation duration, pupil size, blink rate, gaze direction, eye ball acceleration, features and parameters extracted from the eye movement patterns, their complexity, etc.);

...

[0047] In accordance with one embodiment of this invention described below, affective information is determined automatically based on facial expression, eye fixation duration, and galvanic skin response. Other combinations can also be used.

Fedorovskaya, paragraphs 42 and 47.

These portions of *Fedorovskaya* teach that eye movement characteristics can be tracked and that affective information is determined based on facial expression, eye fixation duration, and galvanic skin response. However, nothing in this portion of *Fedorovskaya* teaches the claimed feature of, “wherein the user behavior reported comprises how long the user looked at a first page of the document,” as in claim 10. Even if *Fedorovskaya* teaches eye fixation duration, this teaching does not teach or suggest how long a user looked at a first page of the document.

Because neither *Hoshi* nor *Fedorovskaya* teach this claimed feature, the proposed combination when considered as a whole also does not teach or suggest this claimed feature. Therefore, the examiner has failed to state a *prima facie* obviousness rejection against claim 10.

B.2.ii. The Examiner Failed to State a Proper Teaching, Suggestion, or Motivation to Combine the References

Additionally, the examiner cites the same motivation to combine the references with respect to claim 10 as with respect to claim 9. Therefore, the examiner failed to state a proper teaching, suggestion, or motivation to combine the references against claim 10 for the reasons presented vis-à-vis the response to the rejection of claim 9. Accordingly, the examiner failed to state a *prima facie* obviousness rejection against claim 10.

B.3. Claims 17 and 31

Claim 31 is a representative claim of this grouping of claims. Claim 31 is as follows:

31. A computer program product in a computer readable medium, comprising the computer implemented steps of:
first instructions for storing an electronic consumable on an apparatus, the apparatus providing means for displaying the electronic consumable;
in response to a user action, second instructions for collecting information about the user, wherein the information is collected according to embedded code in an object of the electronic consumable; third instructions for reporting the information across a network;
wherein the information includes biological information about the user.

With regard to the rejection of claim 31, the examiner states that:

Hoshi discloses a computer program product in a computer readable medium, comprising the computer implemented steps of first instructions for storing an electronic consumable on an apparatus, the apparatus providing means for displaying the electronic consumable (paragraph 0058, *Hoshi*); in response to a user action, second instructions for collecting information about the user (paragraph 0059, *Hoshi*), wherein the information is collected according to embedded code in an object of the electronic consumable (paragraph 0146 - 0147, *Hoshi*); third instructions for reporting the information across a network (Figure 12 and paragraph 01 44, *Hoshi*); wherein the information includes biological information about the user.

Hoshi does not explicitly disclose the biological information as claimed.

Fedorovskaya teaches the biological information (paragraph 0043 - 47, *Fedorovskaya*).

It would have been obvious to one of ordinary skill in the art of data processing at the time of the present invention to combine the teachings of cited references because the analysis of the captured user behavior would lead to an accurate profiling of the users (paragraph 0062, *Fedorovskaya*). Furthermore, the classifications of emotions portrayed in pictures help in reviewing the information (paragraph 0009, *Fedorovskaya*). Also the monitoring/tagging of the user behavioral reactions and storing the information is taught in *Fedorovskaya* paragraphs 0036 - 38) and reporting the monitored, tagged user behavior would lead to accurate profiling of the users.

Final Office Action of August 4, 2006, pp. 16-17.

The proposed combination when considered as a whole does not teach or suggest the features of claim 19. As shown with respect to the response to the rejection of claim 19, *Hoshi* does not teach or suggest the claimed feature that “the information is collected according to embedded code in an object of the electronic consumable.” The examiner incorrectly relies on *Hoshi* as teaching this claimed feature, as shown above with respect to the rejection of claim 19. Additionally, *Fedorovskaya* is devoid of disclosure in this regard, and the examiner does not assert otherwise. Because neither *Hoshi* nor *Fedorovskaya* teach or suggest this claimed feature, the proposed combination considered together as a whole does not teach or suggest this claimed feature. Accordingly, the examiner has failed to state a *prima facie* obviousness rejection against claim 31 or against claim 17.

Additionally, the examiner uses substantially the same reasoning for combining the references that are presented vis-à-vis the rejection of claim 9. Therefore, for the reasons presented vis-à-vis the response to the rejection of claim 9, the examiner has failed to state a *prima facie* obviousness rejection against claims 31 or 17 because no proper teaching, suggestion, or motivation to combine the references exists or has been offered.

C. CONCLUSION

As shown above, *Hoshi* does not anticipate the claims and the examiner has failed to state a *prima facie* obviousness rejection. Therefore, Applicants request that the Board of Patent Appeals and Interferences reverse the rejections. Additionally, Applicants request that the Board direct the examiner to allow the claims.

/Theodore D. Fay III/
Theodore D. Fay III
Reg. No. 48,504
YEE & ASSOCIATES, P.C.
PO Box 802333
Dallas, TX 75380
(972) 385-8777

CLAIMS APPENDIX

The text of the claims involved in the appeal is as follows:

1. A system for collecting information about a user of an electronic consumable, comprising:
an electronic consumable displayed using an apparatus, the apparatus having an input device and a sensor;
wherein the sensor is activated by a user action to collect information about the user's behavior as the user consumes the electronic consumable.
2. The system of claim 1, wherein the sensor is a device chosen from the group consisting of: a webcam, an infra red camera, an audio input, a video input, and a temperature sensor.
3. The system of claim 1, wherein the information collected is reported to a remote location.
4. The system of claim 1, wherein by activating the input device, the user causes the information to be collected.
5. The system of claim 1, wherein the user activates the sensor by manipulating an object of the electronic consumable, and wherein embedded code of the object causes the information to be recorded in response to the user manipulating the object.
6. The system of claim 1, wherein the object of the electronic consumable can only be stored in containers that allow the embedded code of the object to function.

7. The system of claim 1, wherein the information is analyzed using data mining techniques.
8. The system of claim 1, wherein the user can configure the collection and reporting of information.
9. A system for collecting information about a user of an electronic consumable, comprising:
 - an apparatus capable of displaying an electronic consumable;
 - an electronic consumable comprising documents and objects;
 - wherein the documents and objects include instructions for automatically monitoring and reporting user behavior; and
 - wherein a user action triggers the monitoring and reporting of the user behavior.
10. The system of claim 9, wherein the user behavior reported comprises how long the user looked at a first page of the document.
11. The system of claim 9, wherein the user behavior reported comprises the time between the user opening an object and closing the object.
12. The system of claim 9, further comprising a sensor as part of the apparatus, wherein the sensor collects biological information about the user.

13. The system of claim 12, wherein the sensor is an infra red sensor, and wherein the biological information comprises the body temperature of the user as determined from the sensor.

14. The system of claim 12, wherein the sensor is a camera, and wherein the biological information comprises facial expressions of the user.

15. The system of claim 14, wherein the facial expressions are classified according to a facial expression recognition algorithm.

16. The system of claim 9, wherein the user behavior is analyzed using data mining techniques.

17. The system of claim 9, wherein the objects can only be stored in containers that allow embedded code of the object to function.

18. The system of claim 9, wherein the user can configure the collection and reporting of information by the system.

19. A method of collecting information about a user of an electronic consumable, comprising the steps of:

storing an electronic consumable on an apparatus, the apparatus providing means for displaying the electronic consumable;

in response to a user action, collecting information about the user, wherein the information

is collected according to embedded code in an object of the electronic consumable; and
reporting the information across a network.

20. The method of claim 19, wherein the reported information is analyzed using data mining techniques.

21. The method of claim 19, wherein the information is collected by sensors of the apparatus.

22. The method of claim 21, wherein the sensors are selected from the group consisting of:
a webcam, an infra red camera, an audio input, a video input, and a temperature sensor.

23. The method of claim 21, wherein the information includes biological information about the user.

24. The method of claim 19, wherein the object of the electronic consumable can only be stored in containers that allow the embedded code of the object to function.

25. A system for collecting information about a user of an electronic consumable, comprising:
means for storing an electronic consumable on an apparatus, the apparatus providing means for displaying the electronic consumable;
in response to a user action, means for collecting information about the user, wherein the information is collected according to embedded code in an object of the electronic consumable;
means for reporting the information across a network.

26. The system of claim 25, wherein the reported information is analyzed using data mining techniques.

27. The system of claim 25, wherein the information is collected by sensors of the apparatus.

28. The system of claim 27, wherein the sensors are selected from the group consisting of: a webcam, an infra red camera, an audio input, a video input, and a temperature sensor.

29. The system of claim 27, wherein the information includes biological information about the user.

30. The system of claim 25, wherein the object of the electronic consumable can only be stored in containers that allow the embedded code of the object to function.

31. A computer program product in a computer readable medium, comprising the computer implemented steps of:

first instructions for storing an electronic consumable on an apparatus, the apparatus providing means for displaying the electronic consumable;

in response to a user action, second instructions for collecting information about the user, wherein the information is collected according to embedded code in an object of the electronic consumable; third instructions for reporting the information across a network;

wherein the information includes biological information about the user.

EVIDENCE APPENDIX

No additional evidence is presented.

RELATED PROCEEDINGS APPENDIX

No related proceedings exist.